

AN ORDINANCE **2016-10-13-0795**

**AUTHORIZING AN AMENDMENT TO A LEASE AGREEMENT WITH
VT SAN ANTONIO AEROSPACE TO REDUCE THE AMOUNT OF
GROUND SPACE LEASED AND INCORPORATE FEDERALLY
MANDATED CONTRACT PROVISIONS AT SAN ANTONIO
INTERNATIONAL AIRPORT.**

* * * * *

WHEREAS, By Ordinance No. 68462 City and Dee Howard Co. ("DHC"), entered into a San Antonio International Airport Lease, Lease No. 124038, in December 1988; and

WHEREAS, DHC assigned the lease to Dee Howard Aerospace, L.P. in 1998; and

WHEREAS, in 2002 San Antonio Aerospace, L.P. purchased the leasehold interest via bankruptcy auction and assigned it to VT Aerospace San Antonio, L.P. (VT Aerospace) in 2008; and

WHEREAS, Security Services Credit Union is developing property adjacent to the airport and require a license agreement with City to access the property which requires changes to the leasehold held by VT Aerospace; and

WHEREAS, the City and VT Aerospace would like to amend the Lease to remove a total of 128,846 square feet from the leasehold in one location, of which 3,599 square feet will be utilized for access by the credit union per a license agreement with City; add 3,964 square feet to the leasehold in another location; and incorporate certain Federal Aviation Administration mandated contract provisions into the Lease; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee is hereby authorized to execute an amendment to the existing San Antonio International Airport Lease with VT Aerospace, which amendment changes the leasehold and incorporates certain Federal Aviation Administration mandated contract provisions, a copy of which amendment is set out in **Exhibit 1**.


SECTION 2. Funds generated by this Ordinance will be deposited into Fund 51001000, Internal Order 2330000000006 and General Ledger 4409016.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

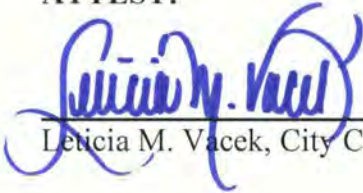
KH
10/13/16
Item No. 11A

SECTION 4. This Ordinance shall take effect immediately upon receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED and APPROVED this 13th day of October, 2016.

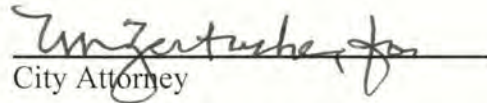

M A Y O R
Ivy R. Taylor

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



City Attorney

Agenda Item:	11A (in consent vote: 4, 5, 6, 7A, 7B, 7C, 8A, 8B, 8C, 8D, 9, 10, 11A, 11B, 12, 14, 15, 16, 20, 22, 23, 24, 25, 26)						
Date:	10/13/2016						
Time:	09:20:49 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing an amendment to the lease agreement with VT San Antonio Aerospace, Inc. to modify the square footage of the leasehold; adjusting the ground rental rates and incorporating new provisions as required by the Federal Aviation Administration.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor	x					
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				x
Joe Krier	District 9		x			x	
Michael Gallagher	District 10		x				

EXHIBIT 1

**SAN ANTONIO INTERNATIONAL AIRPORT
SECOND AMENDMENT OF LEASE**

THIS SECOND AMENDMENT OF LEASE ("Amendment No. 2") is entered into by and between VT San Antonio Aerospace, Inc. ("Lessee"), a Texas corporation, acting through its authorized representative, and the **City of San Antonio** ("City" or "Lessor") acting by and through its City Manager pursuant to Ordinance No. 2008-09-18-0814 passed and approved on September 18, 2008 which Amendment is set forth as follows:

WHEREAS, City and Dee Howard Co. ("DHC"), entered into that certain San Antonio International Airport Lease, Lease No. 124038, on December 15, 1988, pursuant to Ordinance No. 68462 (which lease, together with any and all amendments, modifications and assignments thereto shall hereinafter be referred to collectively as the "Lease"); and

WHEREAS, on June 5, 1988, DHC assigned all of its right, title and interest as lessee to Dee Howard Aircraft Maintenance, LP ("DHAM"); and

WHEREAS, on April 29, 2002, San Antonio Aerospace, L.P. purchased the leasehold interest held by DHAM via bankruptcy auction; and

WHEREAS, by Ordinance 2008-09-18-0814, approved September 18, 2008, the Lease, with San Antonio Aerospace, L.P. as Lessee, was amended as set forth therein ("Amendment No. 1"); and

WHEREAS, VT San Antonio Aerospace, Inc., Lessee under this Amendment No. 2, is successor-in-interest to ST Aerospace San Antonio, L.P., which in turn is successor-in-interest to San Antonio Aerospace, L.P., the Lessee under Amendment No. 1; and

WHEREAS, Lessee and City have agreed to amend the Lease to alter the leased premises by removing certain areas from Tract 1 and adding to and removing certain areas from Tract 2 of the Leased Premises and adjusting Ground Rentals accordingly; with certain areas to be returned to the City; and

WHEREAS, Provisions 9 and 19 of the Special Provisions of the Lease require Lessee to comply with all laws, rules and regulations promulgated by any lawful authority to insure the safe and orderly conduct of operations and traffic on the Airport; and

WHEREAS, pursuant to the FAA "Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors" guideline the City is required to include certain provisions in all of its agreements with third parties; and

WHEREAS, the attached required federal contract provisions are hereby being incorporated into and made a part of the Agreement;

NOW THEREFORE: in consideration of the terms, covenants and promises, agreements and demises herein contained, and for other good and valuable consideration, each to the other given, the receipt and sufficiency of which is hereby acknowledged Lessee and City agree :

I. Article 1, Description of Premises Demised is hereby amended to add the following:

a. A tract of land comprised of 7,206 square feet, located on the western part of the Leased Premises and identified on the attached **Exhibit A-1**, is deleted from Tract A of the Leased Premises.

b. A tract of land comprised of 121,640 square feet, located on the eastern part of the Leased Premises and identified on the attached **Exhibit B-1**, is deleted from Tract B of the Leased Premises.

c. A tract of land comprised of 3,946 square feet, located on the eastern part of the Leased Premises identified on the attached **Exhibit B-1**, is hereby added to Tract B of the Leased Premises.

Exhibits A-1 and B-1 are attached hereto and made a part hereof, which exhibits replace Exhibits A-1 and B-1 attached to Amendment No. 1 in their entirety.

II. Article 2, Base Rental is hereby amended to set forth Ground Rental rates for Tracts A and B, as determined by Producer Price Index for Fiscal Year 2014, as follows:

Leased Premises	Area (SF)	Annual Rate per Square Foot	Annual Rent	Monthly Rent
Ground Lease Tracts A and B	1,931,160	0.0253	\$711,671.04	\$48,938.27
Ground Rental Abatement Tracts A and B	1,931,160	0.0101	(\$234,898.44)	(\$19,574.87)
Total Ground Rental (Tracts A and B)			\$476,772.60	\$29,363.40

III. The last paragraph of Article 2, Base Rental, is deleted in its entirety and the following substituted in its place:

All rentals and payments that become due and payable by the Lessee shall be made to the City of San Antonio and shall be mailed or delivered to:

City of San Antonio
Aviation Department, Attn: Finance Division
457 Sandau Road
San Antonio, Texas 78216

unless Lessee is otherwise notified in writing. The Lessor reserves the right to require that payment be made by wire transfer. All rentals and payments unpaid for ten (10) days after the date due shall bear an interest rate from the date the

payment was originally due until paid. The interest rate shall be eighteen percent (18%) per annum, or the maximum allowable rate.

IV. **Exhibit G**, Required Federal Contract Provisions, is attached hereto and shall be incorporated into and made part of the Lease.

V. This Amendment No. 2 sets forth the entire agreement between the parties with respect to the subject matter hereof. Except as modified herein, the terms and conditions of the Lease, as amended by this Amendment No. 2 remain in full force and effect.

VI. The Amendment No. 2 shall be effective upon execution by City ("Effective Date").

VII. This Amendment No. 2 is executed in multiple counterparts each of which contains all required original signatures and shall be considered an original on its own.

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment No. 2 of Lease as of the dates set forth below.

CITY OF SAN ANTONIO
A Texas home-rule municipality

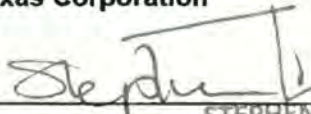
By: _____
Sheryl Sculley, City Manager

Date: _____

Approved as to form:

City Attorney

VT SAN ANTONIO AEROSPACE, INC.
A Texas Corporation

By:  _____
STEPHEN LIM
Printed Name: _____ President
VT San Antonio Aerospace, Inc.

Position: _____

Date: Sep 27, 2016

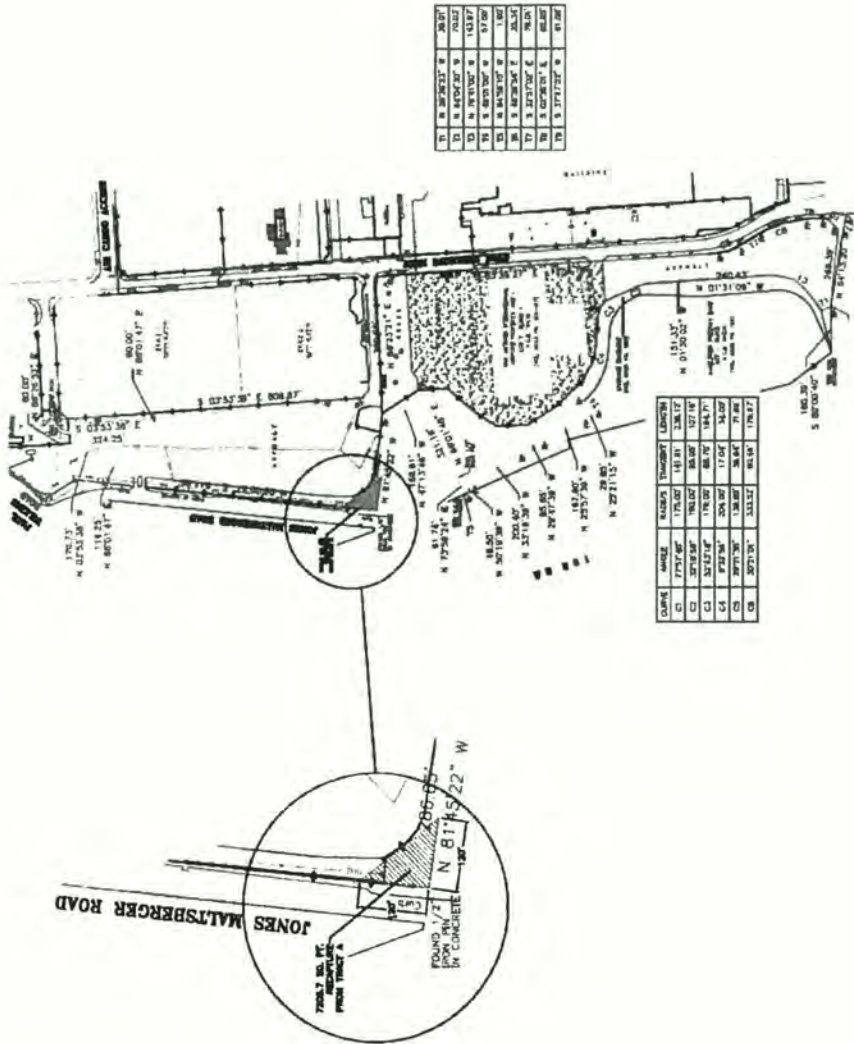
**EXHIBIT A-1
LEASED PREMISES**



Scale: 1" = 400'

NOT TO SCALE
 ALL DIMENSIONS ARE TO CENTER
 UNLESS OTHERWISE NOTED.

- 1. ALL DIMENSIONS ARE TO CENTER UNLESS OTHERWISE NOTED.
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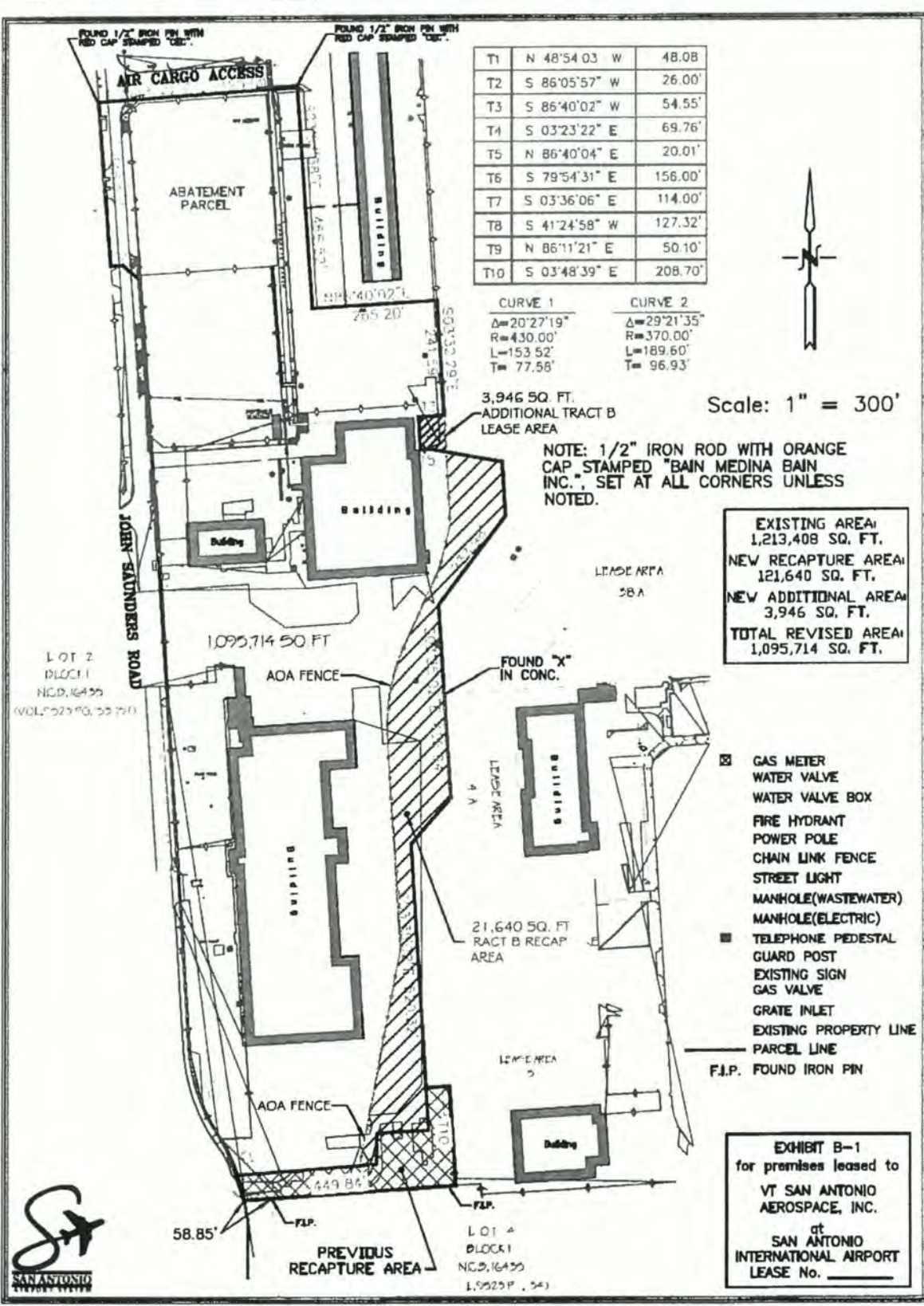
11	N 80° 20' 33\"	W	28.21'
12	N 81° 02' 30\"	W	70.87'
13	N 79° 51' 00\"	W	143.87'
14	N 80° 03' 00\"	W	51.70'
15	N 80° 38' 10\"	W	1.00'
16	N 80° 38' 10\"	E	24.25'
17	S 23° 37' 00\"	E	78.18'
18	S 62° 05' 15\"	E	88.89'
19	S 37° 12' 20\"	W	91.08'

CURVE	ANGLE	RADIUS	CHORD	LENGTH
C1	173° 04'	175.00'	143.81'	238.17'
C2	20° 18' 00"	785.00'	268.00'	127.18'
C3	32° 52' 48"	178.00'	88.70'	164.71'
C4	8° 29' 30"	204.00'	17.04'	34.00'
C5	20° 11' 30"	138.00'	38.84'	79.88'
C6	20° 11' 30"	133.21'	36.58'	76.17'

A SETBACK AND BUILDING ENVELOPE OF 50% SHALL BE MAINTAINED ACCORDING TO THE ZONING PLAN.

EXHIBIT A-1
FOR PREMISES LEASED
 TO:
 Sun America
 International Airport
 LEASE No. _____

**EXHIBIT B-1
LEASED PREMISES**



**EXHIBIT G
REQUIRED FEDERAL CONTRACT PROVISIONS**

As used in this Exhibit, the terms "contractor" or "Contractor" shall refer to "Lessee".

I. GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub-tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

**II. TITLE VI CLAUSES COMPLIANCE WITH NONDISCRIMINATION
REQUIREMENTS**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes Concessionaires) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities

and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

III. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. §1681 et seq).

IV. FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 C.F.R. Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

V. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of

29 C.F.R. Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 C.F.R. Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

VI. CITY OF SAN ANTONIO NON-DISCRIMINATION ORDINANCE

Concessionaire, as a party to a contract with the City, understands and agrees to comply with the Non-Discrimination Policy of the City contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. As part of said compliance, Concessionaire shall adhere to City's Non-Discrimination Policy in the solicitation, selection, hiring or commercial treatment of vendors, suppliers or commercial customers, further, Concessionaire shall not retaliate against any person for reporting instances of such discrimination.

VII. DRUG-FREE WORKPLACE

(a) Definitions. As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in

- the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about—
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The Contractor's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs;
and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;
 - (4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
 - (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
 - (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
 - (7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.
- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.